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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/079,874 05/15/98 BILLING-MEDEL

P 6106.US.P1

HM12/1220

STEVEN F WEINSTOCK
ABBOTT LABORATORIES
D 377 AP6D
100 ABBOTT PARK ROAD
ABBOTT PARK IL 60064-3500

EXAMINER

JOHNSON, N

ART UNIT

PAPER NUMBER

1642

8

DATE MAILED:

12/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/079,874

Applicant(s)

Billing-M del

Examiner
Nancy Johnson

Group Art Unit
1642



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 days month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-21 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9 and 17-19, drawn to a method of detection utilizing hybridization with a polynucleotide, classified in class 435, subclass 6.
 - II. Claim 10, drawn to a method of producing a polypeptide via recombinant techniques, classified in class 435, subclass 69.1.
 - III. Claims 11-12 and 20, drawn to a method of detection comprising contacting a sample with an antibody, classified in class 435, subclass 7.1.
 - IV. Claims 13-14 and 21, drawn to a method of detecting an antibody comprising contacting a sample with a polypeptide, classified in class 435, subclass 7.1.
 - V. Claim 15, drawn to a method of producing an antibody comprising the administration of a polypeptide, classified in class 424, subclass 184.1.
 - VI. Claim 16, drawn to a method of producing an antibody comprising the administration of a polynucleotide, classified in class 514, subclass 44.
2. The inventions are distinct, each from the other because of the following reasons: The methods of Groups I-VI differ in the method objectives, method steps and parameters and in the reagents used.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter and because the searches required for the groups are not co-extensive, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CAR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CAR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CAR 1.48(b) and by the fee required under 37 CAR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy Johnson whose telephone number is (703) 305-5860.



NANCY A. JOHNSON, PH.D
PRIMARY EXAMINER

December 14, 1999